

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights ~~(Prisoner)~~

## UNITED STATES DISTRICT COURT

for the  
District of Oregon

FILED 14 DEC '20 10:52 USDC-ORP

Colby Aplin, Robin Vickio,  
Jim Webster

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Oregon State Hospital

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No. 6:20-cv-02178-YY  
(to be filled in by the Clerk's Office)

## COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

~~(Prisoner Complaint)~~  
None Prisoner

## NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

All other names by which  
you have been known:

~~ID Number~~~~Current Institution~~

Address

Colby Lee Aplin, Robin victio,

Jim Warberg

AKA Prince Aplin.

2600 Center Street, NE

No Institutionalized

Salem

City

OR

State

97301

Zip Code

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (*if known*)~~Shield Number~~

Employer

Address

Oregon State Hospital

2600 Center Street, NE

Salem

City

OR

State

97301

Zip Code

☒ Individual capacity☒ Official capacity

Plaintiff #2

~~Defendant No. 2~~

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Robin victio

3102 W. Street

Vancouver WA 98663

Rk victio@gmail.com

360 771 3530

Relationship, mother of Colby Aplin

City

State

Zip Code

☐ Individual capacity☐ Official capacity

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

~~Defendant No. 3~~ Plaintiff #3

Name  
 Job or Title (if known)  
 Shield Number  
 Employer  
 Address

Jim Warberg  
 1145 Douglas Drive  
 Westlawn, OR 97068

City

State

Zip Code

☐

Individual capacity

☐

Official capacity

~~Defendant No. 4~~

Name  
 Job or Title (if known)  
 Shield Number  
 Employer  
 Address

City

State

Zip Code

☐

Individual capacity

☐

Official capacity

**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐Federal officials (a *Bivens* claim)☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Oregon State Hospital stole of lost practice  
 AFTER received by Fed. small claim.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Oregon State Hospital Intentionally stole, ~~placed~~  
misplaced, or lost clothing package sent to  
Plaintiff sent by Fed X. by family.  
Small property claim.

### III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

☐

Pretrial detainee

☐

Civilly committed detainee

☐

Immigration detainee

☐

Convicted and sentenced state prisoner

☐

Convicted and sentenced federal prisoner

☒

Other (explain)

medical Patient

### IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

The incident occurred in August 2020 at  
Oregon State Hospital

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Plaintiff Colby Aplin is a Patient at  
Oregon State Hospital.

C. What date and approximate time did the events giving rise to your claim(s) occur?

August 2020. Oregon State Hospital  
allow Family member to send  
Personal clothing via Package from the  
Community

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

Oregon State Hospital employees advised Plaintiff Colby Aplin in August 2020 that his Family can send him personal clothing purchased in the community, and either deliver (the clothes in person or to fill out a package request form and have clothing etc sent by UPS, FedEx, or Amazon. Plaintiff Jim Warberg sent a package that contained Burberry Brit Jeans and Dress Shirts. The Burberry BRIT package per FedEx was insured for \$2,500 dollars. Though FedEx says per tracking the package was received and signed for by Oregon State Hospital Center, Plaintiff Aplin's package was never received.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Defendants, though Colby Aplin's Family confirmed that a Burberry BRIT package went missing, ~~the~~ Defendant resolution as of December fourth Defendants continue to deny having lost a Burberry BRIT package. Their resolution as of December is to accuse the Plaintiff that their delusional.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Plaintiff is Demanding the \$2,500 in Burberry BRIT clothing to be ~~separately~~ refunded. And \$9.99 to be refunded to Jim Warberg for shipping.

**VII. Exhaustion of Administrative Remedies Administrative Procedures**

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☐ Yes

☒ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

- B. Does the ~~jail, prison, or other correctional facility~~ <sup>Oregon State Hospital</sup> where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the ~~jail, prison, or other correctional facility~~ <sup>Oregon State Hospital</sup> where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

That 14 Burberry BRIT Package worth \$2,500 went missing after it was signed for at the Oregon State Hospital Com Center.

Small claimPro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (~~Prisoner~~)

- D. Did you file a grievance <sup>at Oregon State Hospital</sup> ~~in the jail, prison, or other correctional facility~~ where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

NA

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Filed Grievance on unit Tree 1,  
@ Oregon State Hospital

2. What did you claim in your grievance?

That a package containing ~~three~~ pairs of Burberry BRIT, worth \$460 ea., and 4 Burberry BRIT Dress shirts \$139. each, 12 pairs of Calvin Klein Boxer briefs \$158.00 worth, Natural Soaps Purchased @ Natural Grocery \$100 etc. Pair of Michael Jordan ~~ten~~ basketball shoes \$245 worth etc went missing after arrival at OSH.

3. What was the result, if any?

Oregon State Hospital said there is an open investigation and that the Hospital will refund ~~not~~ everything, but have made no move to do so.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Investigation pending

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

---

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

NA

---

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

NA

---

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Have been persistent about them locating the lost, stolen, or misplaced property.

---

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

They have refused to provide me a copy of the Grievance

#### VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

---



Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

---

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

NO CASE OPEN

If no, give the approximate date of disposition. \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

☐ Yes

☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

NA

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: Dec 6, 2020

Signature of Plaintiff

Printed Name of Plaintiff's

Prison Identification #

Prison Address

Colby Aplin  
Colby Aplin  
Robin Vickio  
Jim Warberg  
2600 Center St, NE  
Salem OR 97301  
City State Zip Code

**B. For Attorneys**

Date of signing: Dec 6, 2020

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

Edward T. LeClaire  
Edward T. LeClaire  
042081  
metropolitan Public Defender  
630 SW Fifth Avenue, Ste 500  
Portland OR 97204  
City State Zip Code

Telephone Number

E-mail Address

503-225-9100  
eledaire@mpdlaw.com  
Att. For Colby Aplin